



SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 309 be amended to read as follows:

- 1 Page 5, line 15, delete "(a)(2) or (a)(3), as applicable." and insert
- 2 **"(a)(2), subsection (a)(3) (if applicable), or section 7 of this**
- 3 **chapter."**
- 4 Page 5, between lines 18 and 19, begin a new paragraph and insert:
- 5 **"SECTION 2. IC 8-1-2.3-7 IS ADDED TO THE INDIANA CODE**
- 6 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
- 7 **UPON PASSAGE]: Sec. 7. (a) This section does not apply to**
- 8 **incorporations, consolidations, mergers, or annexations that:**
- 9 **(1) are under IC 36-4-3-4(a)(3), IC 36-4-3-4(b), IC 36-4-3-4(h),**
- 10 **or IC 36-4-3-4.1; or**
- 11 **(2) are not contiguous under IC 36-4-3-13(b) or**
- 12 **IC 36-4-3-13(c).**
- 13 **(b) After May 12, 2015, if:**
- 14 **(1) a municipality that owns and operates an electric utility**
- 15 **system furnishing retail electric service to the public annexes**
- 16 **an area beyond the assigned service area of its municipally**
- 17 **owned electric utility; and**
- 18 **(2) the municipality and the affected incumbent electricity**
- 19 **suppliers do not, within sixty (60) days after the annexation**
- 20 **becomes effective, reach a mutual agreement under section**
- 21 **6(a)(2) of this chapter to change the boundaries of the**
- 22 **assigned services areas of the municipally owned electric**
- 23 **utility and the affected incumbent electricity suppliers;**
- 24 **a simple majority of the property owners in the annexed area may**
- 25 **submit to the commission a petition requesting that the commission**
- 26 **determine whether the public convenience and necessity will be**
- 27 **served if the municipally owned electric utility renders service in**
- 28 **the annexed area.**

(c) If a petition is submitted to the commission under subsection (b), the commission shall require all affected electricity suppliers, including the municipally owned electric utility, to appear before the commission. Upon notice and after hearing, the commission shall determine whether the public convenience and necessity will be served if the municipally owned electric utility renders service in the annexed area. In making a determination under this subsection as to whether the public convenience and necessity will be served, the commission shall consider all relevant matters, including the following:

(1) The preference of property owners and utility service customers in the annexed area.

(2) The ability of the municipally owned electric utility to render service following the assignment of the annexed area into the municipally owned electric utility's assigned service area.

(3) Other utility services to be supplied in the annexed area by the municipality.

(4) The:

(A) proximity to the annexed area; and

(B) capability;

of the service repair facilities of all affected electricity suppliers, including those of the municipally owned electric utility.

(5) The preference of local government officials.

(d) If the commission determines under subsection (c) that the public convenience and necessity will be served if the municipally owned electric utility renders service in the annexed area, the commission shall:

(1) issue an order:

(A) changing the assigned service area of the municipally owned electric utility to include the annexed area and giving the right to serve and immediate possession of the annexed area to the municipally owned electric utility; and

(B) changing the assigned service area of each affected incumbent electricity supplier to include territory from the municipally owned electric utility's existing assigned service area that:

(i) will fairly compensate the incumbent electricity supplier for the incumbent electricity supplier's loss of territory in the annexed area under clause (A); and

(ii) the commission determines the incumbent electricity supplier will be able to serve in a manner that is cost effective for the incumbent electricity supplier and the incumbent electricity supplier's customers; and

(2) determine any just and reasonable compensation to be paid by the municipally owned electric utility to an affected

incumbent electricity supplier if the compensation under subdivision (1)(B) is inadequate to make the incumbent electricity supplier whole.

An order of the commission under this subsection is enforceable in court pending an appeal of the order. An appellant from a court order enforcing a commission order under this subsection is not entitled to a stay of the court order pending appeal.

(e) All affected electricity suppliers that appear before the commission under subsection (c) upon a petition to change the boundaries of the assigned services areas of the affected electricity suppliers shall bear their own fees and costs. Property owners submitting a petition to the commission under this section shall not be assessed any fees or costs by the commission in connection with the petition or with the hearing under subsection (c).

(f) The commission shall adopt rules under IC 4-22-2 establishing:

(1) procedures for the submission of a petition under subsection (b);

(2) procedures and time frames for the actions described in subsection (c); and

(3) guidelines for determining just and reasonable compensation under subsection (d), including time frames for the payment of any compensation under subsection (d)(2).

In adopting rules under this subsection, the commission may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the commission under this subsection in the manner provided by IC 4-22-2-37.1 expires on the date a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36."

Renumber all SECTIONS consecutively.

(Reference is to SB 309 as printed February 10, 2015.)

Senator HEAD